

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADMI INC, TARSIN MOBILE INC., by their CEO,
JOSEPH R. CELLURA and JOSEPH R. CELLURA,
Individually,

Plaintiffs,

VS.

ALLEN D. MOYER, ADMII INCORPORATED,
AND DOES 1-2,

Defendants.

Case No. 22-9339/ALC

**Attorney's Declaration in Support of
Plaintiff's Motion for a Finding That
Substitute Service of Process has been
Perfected or Alternatively for an
Order Enlarging Time and Granting
Plaintiff Permission to Service Process
via the Defendants' e-mails.**

Pursuant to 28 U.S.C. § 1746, I, DOUGLAS R. DOLLINGER, hereby declare as follows:

1. I am the Attorney for the Plaintiffs in these proceedings. I make this Declaration in support of Plaintiffs' Motion for a ruling on Plaintiffs prior service of process and in the alternative an enlargement of time and permission to serve the Defendants their Amended Summons and Complaint via email service. Time to serve as will expire today November 30, 2023. The Defendants assigned email addresses are: <http://www.admii.com> & amoyer@admii.com. **(Exhibit "A").**

2. I have personal knowledge of the facts before the Court and upon review of the attached affidavits of service filed with this office in the matter of service reports concerning service of process of the Amended Summons and Complaint over the Defendants Alan D. Moyer and ADMII Incorporated and DOES 1-2.

3. Plaintiffs submit their Memorandum of Law in support of their Application for Leave to Serve Process by email over the Defendants under New York's C.P.L.R. § 308

(5). Defendant Moyer resides in the State of California and ADMI Incorporated in the State of California.

4. The Defendants' offices are permanently closed or otherwise abandoned. Steps were taken to serve Defendants at multiple address-suites claimed to be occupied by them and at the Defendant Moyer's presumed home. **(Exhibit "B-"D").**

5. Despite multiple attempts, service of process has been made impossible by Defendant Moyer's intentional acts of avoidance. The Defendants are represented before this Court and in a California Action by Counsel Michael Khouri, Esq. Defendant Moyer has refused to allow his Attorney to accept service of process for him or ADMI Incorporated.

6. Plaintiffs have communicated with Defendant Moyer using an email address amoyer@admi.com associated with the Defendants' websites. **(Exhibit "A").**

7. Although multiple attempts were made to personally serve the Defendants as recent as November 29-30, 2023, personal service over Alan D. Moyer and ADMI Incorporated has been made impossible despite all efforts and acts of due diligence to do so. Although personal service has been avoided Defendant Moyer has been served in under California's Civil Rules of substitute service CCP 415.20. **(Exhibit "C"-D.)**

8. Because Defendant Moyer has avoided service and is the Agent for Service of Process for ADMI Incorporated, the Company has not yet been served under California's rules for service of process. However, the attempts are ongoing. Based on the activities of Defendant Moyer, concerning ADMI Incorporated's rights as claimed to Plaintiffs' New York contract, service of process has been made upon the

New York State Secretary of State against ADMI Incorporated as a foreign corporation.

9. Attached hereto are the affidavits of Elenor Rios, Krista Cantu, Edgar Santos the individual employed by Proof Technology New York , LLC 1800 Gaylord Avenue, Denver, CO 80206 License # 12103684-DCA, to serve the Defendants at their place of business and home. **(Exhibits “B”-“D”).**

10. The attempts at service of process and substitute process include the place of business for the Defendants Moyer and ADMI Incorporated as well at Defendant Moyer’s residence for himself personally and as the designated Agent for Service of Process of ADMI Incorporated.

11. Service attempts and made include:

- (i) Server Name: Ellenor Rios License#: Santa Clara PS984: September 18, 2023, 11:29 AM. Address: 18525 Sutter Boulevard, Suite 290, Morgan Hill, CA 95037. Description of attempt: Unit is vacant.
- (ii) Server Name: Ellenor Rios License#: Santa Clara PS984: September 19, 2023, 6:44 PM. Address: 12300 Highland Estates, San Martin, CA 95046 Description of attempt: There is no access to this residence address. There is 3 separate driveways and call boxes and there was no answer attempt rang and rang.
- (iii) Server Name: Ellenor Rios License#: Santa Clara PS984: September 20, 2023, 7:08 AM. Address: 12300 Highland Estates, San Martin, CA 95046. Description of attempt: There is no access to this residence address. No one answered the call box. Car parked in the driveway and a light on inside.
- (iv) Server Name: Krista Cantu License#: Santa Clara PS1702: September 19, 2023, 6:44 PM. Address: 12300 Highland Estates, San Martin, CA 95046. Description of attempt: There is no access to this residence address. There seems to be 3 separate driveways and call boxes and there was no answer. It rang and rang. September 20, 2023, 7:08 AM. Address: 12300 Highland Estates,

San Martin, CA 95046. Description of attempt: There is no access to this residence address. No one answered the call box. Car parked in the driveway and a light on inside.

- (v) Server Name: Krista Cantu License#: Santa Clara PS1702: October 19, 2023, 5:08 AM at 12300 Highland Estates, San Martin, CA 95046. A description of attempt provides that the house was dark inside. No lights were on inside. No cars were present. October 19, 2023, 6:21. AM at 12300 Highland Estates, San Martin, CA 95046. A description of the attempt provides there were a lot of lights inside the house.
- (vi) Server Name: Edgar Santos License# 1827: Santa Clara: October 19, 2023, 07:00 AM. at 12300 Highland Estates, San Martin, CA 95046, A description of the attempt provides there were lights inside which had been on were turned off. No cars in or out. On October 19, 2023, 08:06 AM. A description of the attempt provides there were no one had been in and out. Lights are off inside. On Oct 19, 2023, 08:30 AM. A description of the attempt provides there were A man showed up in the front of the house. He was cleaning it up. Server Santos yelled out to him about 5 times, loud enough so he could be heard. The man ignored Mr. Santos. After a while, the man went to the back of the house and then he left. Mr. Santos spoke with the neighbor who pointed out he was leaving in his truck from a back entrance to the house. On Oct 19, 2023, 09:45 AM; The neighbor said the subject was at the premises yesterday, his wife used to live here too, but she left him. The neighbor said the subject Alan D. Moyer knows he's getting served and is intentionally avoiding service. She said there is a back entrance to the house. She said they would have to bring their horses in sometime so someone would return and that we should check the back of the house. Mr. Santos went to the back and saw multiple cars and the horses. On Oct 19, 2023, 10:07 AM; The man returned and saw Mr. Santos, who yelled out to him. The man started to walk away. Mr. Santos announced service to him and left the documents past one of the gates on the inside of the property. On October 19, 2023. the caretaker was sub-served, and the service was then completed by the mailing on October 19, 2023, of the Amended Summons and Complaint with exhibits at the address 12300 Highland Estates, San Martin, CA 95046, by depositing in a USPS Mailbox in an envelope marked personal and confidential directed to Alan D. Moyer.

10. Counsel has been in contact with the process servers office and is awaiting proof of the most recent attempts to serve the Defendants, proof of service on the Defendants Counsel and upon the New York Secretary of State and will supplement the Plaintiffs' Motions as received.

11. Prior to submission of the motion Counsel attempted to obtain the consent of Defense Counsel to accept service and otherwise avoid filing the instant motion. No response was received.

12. Based on the Defendant Alan D. Moyer's willful disregard and avoidance of service of process, unless Defense Counsel accepts service on behalf of the Defendant Alan D. Moyer and ADMI Incorporated Plaintiffs have established or otherwise shown good cause for an enlargement of time to serve process and for a compelling reason to serve Defendants by email.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30th day of November 2023.

Douglas R. Dollinger, Esq.
DOUGLAS R. DOLLINGER, ESQ.